

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/044,348

Filed: January 11, 2002

Inventor(s): Vincent Dureau

Title: NEXT GENERATION
TELEVISION RECEIVER

Examiner: Shepard, Justin E.
Group/Art Unit: 2424
Atty. Dkt. No: 5266-04300

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May 4, 2009

Date

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated below.

Applicant is in receipt of the Final Office Action mailed February 2, 2009. Claims 1-10 and 12-32 are pending in the application. Reconsideration of the present case is earnestly requested in light of the following remarks.

Claims 1-5, 13, 20, 28, and 29-32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2003/0066084 (hereinafter "Kaars") in view of newly cited U.S. Patent No. 6,040,829 (hereinafter "Croy"). Claims 6, 7, 14, 15, 16, 21, 22, 23, and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kaars in view of Croy in further view of U.S. Patent No. 6,449,767 (hereinafter "Krapf"). Claims 8, 17, 22, and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kaars and Croy in further view of U.S. Publication No. 2003/0110513 (hereinafter "Plourde"). Claims 9, 10, 18, 19, and 27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kaars and Croy in further view of U.S. Publication No. 2002/0104019 (hereinafter "Chatani"). Claims 12 stands rejected under 35 U.S.C. 103(a) as being

unpatentable over Kaars and Croy in further view of U.S. Patent No. 6,532,593 (hereinafter "Moroncy"). The following clear errors in the Examiner's rejection are noted.

Claim 1 recites a television system including a secondary device and a transcode subsystem that is configured, in part, to:

"detect a communication from the secondary device;
determine a target data format corresponding to the secondary device;
convey a request to an external entity for a transcode subunit corresponding to said target data format, in response to determining the transcode subsystem is not configured to support said target data format; ..."

It is noted that the secondary device is a single device:

- a) from which the transcode subsystem detects a communication,
- b) to which the target data format corresponds, and
- c) that uses a data format the transcode subsystem is not configured to support.

Applicant noted in the response to Final Office Action that the combination proposed did not meet the claim features. Applicant noted that adding two-way communication as taught by Croy to Kaars does not produce the invention as currently claimed. In the present Advisory Action, the Examiner responded by suggesting:

"Kaars discloses a system with a transcode subsystem (figure 1, part 100; paragraph 21) that can take an input from a user using a user interface (paragraph 22) to identify the type of device that the data needs to be transcoded for (paragraph 28; figure 1, part 150). In the system disclosed by Kaars, the user interface is operated using a remote controller that communicates directly with the transcode subunit (paragraph 22, lines 14-21). This does not meet the limitation of detecting a communication from the secondary device as the secondary device does not communicate directly with the transcode subunit. Croy teaches a device with either a one-way or bi-directional communication with a set top box (column 4, lines 10-37). It is the opinion of the examiner that one could add the bi-directional communication to the secondary device disclosed by Kaars (figure 1, parts 132, 134, and 142) to communicate with that transcode subunit. This is viewed as a valid combination as the secondary devices disclosed by Kaars could be a personal computer, which inherently includes bi-directional communications over a network wire (figure 1, parts 130 and 140) of which a bi-directional network wire is included in the possible connections taught by Croy (column 4, lines 10-37)."

Applicant agrees that Kaars communication with a remote control does not meet the limitation of detecting a communication from the secondary device, as recited. Evidently, the combination suggested by the Examiner includes adding Croy's bi-directional communication to one of Kaars's devices 132, 134, and 142, rather than to Kaars's remote control. However, Applicant submits this proposed combination still does not produce the invention as currently claimed. Croy teaches a hand-held device that, in one embodiment, uses bi-directional communication. However, nothing in Croy suggests the hand-held device uses a data format that requires a non-supported transcode unit. On the contrary, for bi-directional communication, Croy relies on the fact that the hand-held device's display is properly formatted to provide information

and command selections to the user from which the user may make choices. More particularly, Croy discloses:

“Remote device 200 includes a selection device 230 and output devices including display device 240 and speaker 250. Selection device 230 includes an array of function keys, softkeys, alphanumeric keys or other input keys for providing user input and command selections. This input is provided through selection device 230 to microcomputer 220. Display device 240 provides a means by which information and command selections may be displayed on remote device 200 to a user. Using a conventional liquid crystal display (LCD) device, microcomputer 220 can formulate information displays and command selection menus for display on display device 240. Display device 240 includes a display control component 242 including logic for controlling the display of information on LCD 246. In addition, display device 240 includes a display memory (RAM) 244 used for retaining information for display on LCD 246. Speaker 250 is used to provide output for audible information as controlled by microcomputer 220.” (Croy, col. 5, lines 17-34).

As may be seen from the above, Croy’s remote device first provides a means by which information and command selections may be displayed to a user. Subsequently, the user may provide inputs through the hand-held device. Accordingly, communication from the hand-held device to another electronic device requires the hand-held device’s display to use a data format that is known to the other electronic device. In addition, it is noted that Kaars system requires a user input to determine the device for which to provide transcoding. Kaars teaches that a user interface is provided “to enable a user to provide information based upon which the processor encodes the data.” (Kaars [0022]). However, whether the information is provided by Croy’s remote control or by one of Kaars’s other devices, any of these devices that is capable of enabling a user to provide such information must do so using properly formatted data. Adding Croy’s two-way communication enables a device to communicate with Kaars’s transcode subsystem if and only if the device uses a data format that the transcode subsystem is configured to support. Such a device, communicating with the transcode subsystem via a supported data format, is not equivalent to the recited secondary device. Consequently, the transcoding device is necessarily configured to support the target data format of the device through which user input is provided even with the addition of bi-directional communication as disclosed by Croy.

Accordingly, Applicant finds no teaching or suggestion in the cited art, taken singly or in combination, of “a transcode subsystem coupled to the receiver and the interface, wherein the transcode subsystem is configured to: detect a communication from the secondary device; determine a target data format corresponding to the secondary device; convey a request to an external entity for a transcode subunit corresponding to said target data format, in response to determining the transcode subsystem is not configured to support said target data format;” as is recite in claim 1. For at least these reasons, Applicant submits claim 1 is patentably distinct from the cited art. Independent claims 13 and 20 are distinct for similar reasons.

Also, the dependent claims recite additional features neither taught nor suggested by the cited art. For example, claim 30 recites:

“The client as recited in claim 1, wherein the transcode subsystem is further configured to automatically retrieve the transcode subunit from an external entity without receiving a user request for the transcode unit.”

It is noted that both Kaars’s remote control and Croy’s hand-held device supply user inputs. Accordingly the combination of Kaars and Croy neither teaches nor suggests “wherein the transcode subsystem is further configured to automatically retrieve the transcode subunit from an external entity without receiving a user request for the transcode unit,” as is recited in claim 30. For at least these additional reasons, Applicant submits claim 30 is patentably distinct from the cited art, taken either singly or in combination. As claims 31 and 32 recite features similar to those of claim 30, claims 31 and 32 are believed patentably distinct from the cited art for similar reasons.

Also, claim 8 recites

“wherein the transcode subsystem is configured to discard the received data in response to determining the first data format is not compatible with the secondary device, and determining no transcode subunit corresponding to both the first data format and the target data format is available.”

In the Final Office Action, the Examiner admits Kaars and Croy do not disclose these features but maintains the rejection of claim 8 by contending Plourde teaches these features at page 14, paragraph 107, lines 22-24. Applicant previously noted that Plourde says nothing about “determining no transcode subunit corresponding to both the first data format and the target data format is available.” In response to this argument, on page 4-5 of the Final Office Action, the Examiner states:

“Kaars always determines whether the first data format is compatible with the second device. Plourde is used to teach that there might be a situation arise wherein there is no codec can be found as the data rate is too high to be decoded by the device using the available codecs then the data is discarded.”

However, Plourde bases the decision of whether or not to refuse a download on the bit rate of the download. The Examiner appears to be suggesting that a bit rate that is too high implies that there is no codec available. Applicant finds no support in Plourde for this idea. Plourde teaches:

“. . . In some embodiments, excessive data rates, such as those associated with high definition TV (HDTV) and quickly consume the TSB 378. In such embodiments, the PVR application 377 can determine the quality level from the incoming content stream, or monitor how fast disk space is being consumed. If the bit rate is excessive, the PVR application 377 can cause the content to bypass the TSB 378 and either be permanently recorded, or refused as a download. In other embodiments, such as DHCTs with large enough hard disk drives to handle HDTV, practically any bit rate can be accommodated by the TSB 378.” (Plourde, [0107], emphasis added).

As may be seen from the above, Plourde rejects high bit rates because they could potentially overflow the time shift buffer (TSB). It is entirely consistent for Plourde’s system to reject high bit rates even when a suitable codec is available. Plourde makes no explicit connection between bit rate and the availability of a codec. The Examiner’s contention that “there might be a situation arise

wherein there is no codec can be found as the data rate is too high to be decoded by the device using the available codecs" appears to be nothing more than speculation, as Applicant finds no such teaching in Plourde. In fact, Plourde suggests that buffer size, not codec availability is the determining factor, teaching that, "with large enough hard disk drives to handle HDTV, practically any bit rate can be accommodated by the TSB." Accordingly, Applicant submits the cited art fails to teach or suggest that a "transcode subsystem is configured to discard the received data in response to determining the first data format is not compatible with the secondary device, and determining no transcode subunit corresponding to both the first data format and the target data format is available," as is recited in claim 8. For at least these additional reasons, Applicant submits that claim 8 is patentably distinct from the cited art, taken either singly or in combination. Claims 17, 24, and 26 are similarly distinguishable.

In light of the foregoing remarks, Applicant submits clear errors are present in the rejections and the application is in condition for allowance, and notice to that effect is respectfully requested. If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 501505/5266-03800/RDR.

Respectfully submitted,

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